

ALGERIAN FISHING POLICY IN THE MEDITERRANEAN SEA

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Abstract :

The Mediterranean Sea is characterized by geographical characteristics which make it a semi-closed sea, and strategic characteristics which make it an important transit zone for ships, affecting the marine environment and making it vulnerable to risks of pollution having adverse effects on marine environment as well as on living marine resources in the Mediterranean.

In this regard, the countries of the Mediterranean basin adopt a fishing policy with respect to the specificity of the region, in order to ensure the sustainability and diversity of living marine resources

and the proper exploitation of the quota of each country, while preserving the marine environment.

In the same sense, Algeria leads a governance of marine fishing, that is clearly showed through legal texts regulate maritime fishing within the framework of the directives and recommendations of the various competent bodies at the national, regional and international level.

Key words : Fishing, Mediterranean Sea, Policy

الملخص :

يتميز البحر الأبيض المتوسط بخصائص جغرافية تجعل منه بحرا شبه مغلق، وخصائص استراتيجية تجعل منه منطقة عبور مهمة للسفن، الأمر الذي يؤثر على البيئة البحرية ويجعلها عرضة لمخاطر التلوث الذي ينعكس سلبا على الحياة البحرية للموارد الحية في البحر الأبيض المتوسط.

بهذا الخصوص تعتمد دول حوض البحر الأبيض المتوسط سياسة صيد تتلائم وخصوصية المنطقة بما يضمن استدامة الموارد البحرية وتنوعها والاستغلال المناسب لكل دولة لحصتها منها، مع الحفاظ على البيئة البحرية.

في ذات السياق تنتهج الجزائر سياسة الصيد الرشيد التي تتجلى بوضوح من خلال مجموعة النصوص القانونية المتبنية التي تنظم الصيد البحري في إطار توجيهات وتوصيات مختلف الهيئات ذات الصلة على المستوى الوطني، الإقليمي والدولي.

الكلمات المفتاحية : الصيد البحري، البحر الأبيض المتوسط، سياسة.

Résumé :

La mer Méditerranée se caractérise par des spécificités géographiques qui lui en font une mer semi-fermée, et des caractéristiques stratégiques qui lui en font une zone de transit importante pour les navires, affectant le milieu marin et le rend vulnérable aux risques de pollution ayant des effets néfastes sur la vie marine ainsi les ressources marines vivantes en Méditerranée.

A cet égard, les pays du bassin méditerranéen adoptent une politique de pêche adaptée à la spécificité de la région, afin d'assurer la continuité et la diversité des ressources marines et la bonne exploitation du quota de chaque pays, tout en préservant le milieu marin.

Dans le même sens, l'Algérie mène une gouvernance de la pêche marine, se manifeste clairement à travers l'ensemble des textes juridiques adoptés qui réglementent la pêche maritime dans le cadre des directives et recommandations des différents organismes compétents à l'échelle nationale, régionale et internationale.

Mots clé : Pêche, Mer Méditerranée, Politique.

Introduction :

The Algerian maritime space has known an extension after the establishment of an Exclusive Economic Zone (EEZ), Algeria has promulgated Presidential Decree n°18-96 establishing an Exclusive Economic Zone (EEZ)¹ along its coasts, as allowed by part five of the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

According to the provisions of Presidential Decree, the outer limits of the Algerian EEZ are calculated from the baselines determined pursuant to Decree n° 84-181 of August 4, 1984, up to the limits designated by a list of geographical coordinates of points annexed to the Presidential Decree, using world geographical system 1984 (WGS 84).

This new maritime space requires to set a fishing policy with respect of the Mediterranean specificities that allowed to exploit living resources in a sustainable way².

¹ - Presidential Decree 18-96 of march 20,2018, J.O.R.A n 18 of march 21,2018.

² - According to the General Fisheries Commission for the Mediterranean (GFCM) 'The State of Mediterranean and Black Sea Fisheries' report (2020), 88% of assessed fish stocks in this region are fished at biologically unsustainable levels. The Mediterranean is home to many small-scale fisheries, some of which catch multiple species with a variety of different gears on the same trip. These fisheries often lack accurate data and the organization to ensure efficient management, P 82. MEDFISH Impact Report, 2020.

Regulation frame of fishing and aquaculture activities :

After the adoption of law n°03-10 (2010)³ related to the protection of the environment in the frame of the sustainable development; the maritime fishing sector has been affected by the new national policy of the sustainable development, thereby Algeria has adopted a new fishing regulation. The law n° 15-08 (2015), amending and supplementing Law n°01-11, lays down the basis for the exploitation, conservation and the preservation of the living marine resources of waters under national jurisdiction, and the fundamentals essentially based on the concept of responsible fishing.

The "*responsible fishing*" is one of the innovations introduced by the Law, defined in the article 02 as follow: "*responsible fishing means the rational exploitation of fishery resources so as to ensure their sustainability and minimize the impact of 'Fishing activity on the environment'*".

The new amendments in the frame the new policy have made possible for foreign vessels complying with the conditions to benefit only from the scientific fishing license, and to carry out scientific fishing in all waters under national jurisdiction, including internal and territorial waters without specifying a specified distance as was provided in Law n° 01-11. About commercial fishing, the Algerian

³ - Chapter 03 of the law dedicated to the prescriptions of the protection of water and aquatic spaces. O.J.R.A n° 43 of 20 July 2010.

legislator is retreating from its previous position to authorise foreign vessels to carry out commercial fishing operations in the reserved fishing zone; he has not prescribed any provisions concerning the authorisation for foreign vessels to carry out commercial fishing operations in waters under national jurisdiction, including the reserved fishing zone⁴.

The banning of vessels flying the foreign flag from commercial fishing in waters under national jurisdiction appears inconsistent with Algeria's international commitments in this field. However, article 03 specifies that the Law "*defines the general rules for the management and development of fisheries and aquaculture, in accordance with the State's international commitments on the exploitation, conservation and preservation of biological resources of waters under national jurisdiction...*".

⁴ - The article 23 provides the possibility for vessels flying the foreign flag to be authorized was repealed. This situation results from the redeployment of part of the fishing fleets of neighbouring countries due to restrictions imposed by the EU's Common Fisheries Policy as well as by Asian countries specializing in certain species. Abdeldjalil BELALA : « Les lignes directrices de la loi sur la pêche et l'aquaculture à la lumière de la réglementation algérienne », In Neptunus, E-revue. Centre de Droit Maritime et Océanique, Université de Nantes, vol. 10, 2004/2. P 12.

In this context, the Algerian authorities have an unilateral commitment to protect certain aquatic species threatened with extinction by ensuring "... *the conservation of marine mammals, birds and sea turtles in accordance with international conventions*" (article 16 paragraph 2), that justifies the ban of fishing⁵.

This change in the position of the Algerian legislation has influenced the text of the Law by inserting new expressions with new meanings, such as "*illegal fishing*" instead of "*fishing without authorization*" which was used to describe fishing practices by foreign vessels contrary to the provisions of the Law; but the use of the expression "*illegal fishing*" is the result of prohibiting these vessels from fishing.

I. Fishing

Fishing in Algeria is a subject of an authorization issued by the territorially competent fisheries administration on payment of fixed fees. The fishing of highly migratory fishers is restricted to vessels flying Algerian flag only, armed and equipped in accordance with the legislation and regulations in force concerning fishing, safety and maritime navigation⁶. The exploitation of seaweeds and sponges shall be carried out on the basis of a concession established by the

⁵ - The situation in the Mediterranean and Black Sea is alarming, as catches have dropped by one-third since 2007, mainly attributable to reduced landings of small pelagic such as anchovy and sardine but with most species groups also affected. FAO. 2020. The State of World Fisheries and Aquaculture 2020. Contributing to food security and nutrition for all. Rome. P 05.

⁶ - Art 35bis.

administration in charge of estates, and issued by the territorially competent fisheries administration after the payment of fees fixed by the law of finance⁷. High seas sustainable fishing is encouraged⁸, but the national fleet have not an appropriate vessel to practice it, an assessment project (MEDFISH) was lunched in order to evaluate Mediterranean fisheries sustainability performances⁹, so far, Algeria is not part of the project.

II. Aquaculture

In Algeria, aquaculture is directly affected by other sectoral laws such as the land law, including the use of public domains as the water law, environmental law, animal health and animal disease law, fisheries law and trade law. Many of the issues and concerns involved are not unique to aquaculture and may be regulated under a more general legislative regime. In addition, many of the laws and regulations in place may not even apply directly to aquaculture and are thus often applied to the sector in an inconsistent manner. Conflicts may arise

⁷ - Art 37.

⁸ - Art 34.

⁹ - The Marine Stewardship Council (MSC) and the World Wild Fund for Nature (WWF) jointly launched the MEDFISH project in September 2015. The project's aim was to carry out a rigorous and comprehensive analysis of French and Spanish Mediterranean fisheries using the MSC Fisheries Standard as a benchmark for sustainability. This was the first time that such an approach was tested in the Mediterranean, allowing an independent evaluation of Mediterranean fisheries sustainability performances.

within the range of legislation applicable to aquaculture or among the agencies and institutes involved¹⁰.

It has especially become common to regulate capture fisheries and aquaculture in the same piece of legislation, even though aquaculture as an activity is closer to agriculture than capture fisheries. In countries where the aquaculture sector is being developed governments find it useful to have the same authority enforce and control both sectors. However, the two should be separated both legally and institutionally. From a legal point of view, existing fisheries legislation often does not form an adequate basis for regulating aquaculture¹¹.

In Algeria, aquaculture is regulated in the same law with capture fisheries, both are supervised by the Ministry of Agriculture, Rural Development and Fisheries. In the beginning there were some lacks when the law allowed to aquaculture farmers to deal only with the fisheries administration, without intervention of the estates administration that is involved. In the same time there was no collaboration between the two administrations, which create a blockade for farmers. Later, in order to avoid the previous situations, the

¹⁰ - Patrice Talla Takoukam & Karine Erikstein : "Aquaculture regulatory framework", FAO legal papers online, No.91 July 2013. P 08.

¹¹ - Numerous countries have enacted specific rules relating to aquaculture under aquaculture-specific legislative text, 1 basic fisheries law,2 water law,3 or another piece of legislation. These laws tend to set up some principles on aquaculture and then invest the legitimate authority with the power to regulate aquaculture. Patrice Talla Takoukam & Karine Erikstein : supra . P 08.

amendment had integrated the administration in charge of estates in the administrative processes. In fact, the exercise of aquaculture is carried out on the basis of a concession established by the administration in charge of estates; and issued by the territorially competent fisheries administration on payment of fixed fees¹².

III. The exploitation of coral

The coral reefs in Algeria had suffered for a long time from illegal exploitation, which conducts the authorities to set up a new regulation to confront this practice¹³. The amendments of the law n° 01-11 include new arrangement about the exploitation of coral, followed of a numerous applicable decree.

First, a new definition was adopted about coral in the finished state; the previous definition deals with coral only as a biological resource. The coral in the finished state means coral *worked and transformed*¹⁴; which must be carried out in a rational manner using the appropriate diving equipment and systems in identified exploited zones¹⁵. These exploited zones shall in all cases be subject to a public

¹² - Aquaculture production in Northern Africa, excluding Egypt is estimated of 0.02 per cent of the world total production in 2014. The State of World Fisheries and Aquaculture 2016. p 27.

¹³ - Decree of January 13, 2016 setting the conditions and modalities for the development of the coral exploitation program.

¹⁴ - Art 02: The coral in the finished state means coral worked and transformed: 1- in the shape of a pierced ball and mounted on a wire; 2 - drilled barrel-shaped and mounted on wire; 3- in the form of a nugget pierced and mounted on a wire; 4- in the form of a cabochon; 5- shaped and carved.

¹⁵ - Decree of January 13, 2016 setting the terms and conditions for the opening of coral exploitation perimeters.

concession granted to natural or moral persons of Algerian nationality¹⁶.

The concession is established by the authority responsible for domains acting on behalf of the State, and issued by the territorially competent fisheries administration, on payment of fixed fees.

To benefit properly from the concession, the captain of the coral ship is required to maintain a dive register¹⁷; complete a summary declaration of the coral caught and respect the annual quota authorized which may be exceeded within the limit of the percentage fixed by regulation¹⁸. A local commission was setting to identify coral and control the respect of the regulations¹⁹.

The export of coral is authorized only in the finished state; its holding and circulation (raw or semi-finished coral) are subordinated to a document justifying its legal obtaining and the traceability related thereto²⁰.

¹⁶ - Executive Decree No. 15-231 of August 26, 2015 setting the conditions and modalities for the exercise of coral fishing.

¹⁷ - Decree of January 13, 2016 setting the terms and content of the diving register for the exploitation of coral.

¹⁸ - Decision of 06 June 2018, setting modalities of declaration of coral caught. J.O.R.A n°74 of 12/12/2018.

¹⁹ - Interministerial decision of 11 February 2018, establishing the organization and the functioning of the local coral identification commission. J.O.R.A n° 22 of 18/04/2018.

²⁰ - Arts 36bis, ter & quart.

Conclusion:

To improve the Algerian legal system concerning the resource management including fish stocks assessment, Algeria has to make efforts by adopting rules that organize clearly the scientific fishing conducted by national or foreign vessels, and by the insertion of new technologies systems in both scientific fishing and the fishing operations, and also by cooperating with neighbouring states and involved international and regional organisations to exchange databases for the benefit of all.

The current framework of Algerian fisheries and aquaculture legislation is not even completed and needs to be more detailed as shown above, provides a platform for the construction of a full maritime, legislative and institutional structure in accordance with the national, regional and international perspectives, so the government has to adopt an appropriate maritime policy to make better by reforming and strengthening the legislation in force.

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